

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 26, 2004. Claims 1-34 are pending in the present application. The Examiner rejected Claims 1-3, 6-12, 15-21, 24-29, 31, and 33. The Examiner objected to Claims 4-5, 13-14, 22-23, 30, 32, and 34.¹ For the reasons set forth below, Applicant respectfully disagrees with this rejection.

Interview Summary

Applicant thanks the Examiner for the courtesy of a telephone interview on May 26, 2003 between the Examiner and Applicant's attorney, Brian Oaks. During this interview, the rejection of Claims 1, 10, 19, 28, 29, 31, and 33 over U.S. Patent No. 5,991,732 issued to Moslares ("Moslares") was discussed. Applicant's attorney contended that *Moslares* does not disclose, teach, or suggest the allocation of values from a parent to its children based on the sum of the variations of the children or a matrix of the variations of the children, as recited by the claims. The Examiner responded that he will consider this argument upon the filing of this written Response by Applicant.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that Claims 4-5, 13-14, 22-23, 30, 32, and 34 would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims. However, these claims depend from independent Claims 1, 10, 19, 29, 32, and 33, respectively, which are allowable for the reasons discussed below, and are, therefore, allowable in their current form.

Rejections Under §102(b)

In the Office Action, the Examiner rejected Claims 1-3, 6-12, 15-21, 24-29, 31, and 33 under 35 U.S.C. §102(b) as being anticipated by *Moslares*. Applicant respectfully submits that *Moslares* does not disclose, teach, or suggest each and every limitation recited in these claims.

Claim 1 of the present invention recites the following:

¹ Applicant notes that the Examiner indicates on the Office Action Summary page that Claim 33 is both rejected and objected to. Based on the Examiner's detailed comments, Applicant assumes that it is Claim 34, not Claim 33, that is objected to.

A computer-implemented method for allocating data in a hierarchical organization of data, comprising:

determining new values for one or more parents in the organization of data;

determining current values for one or more children in the organization of data, each child being hierarchically related to one or more of the parents;

determining the relationship between each parent and its children;

determining a variation for each child; and

determining a new value for each child by allocating the new values of the parents to the children based on the parent-child relationships, the current values of the children, and either the sum of the variations of the children or a matrix of the variations of the children.

Independent Claims 10, 19, 28, 29, 31 and 33 recite similar, although not identical, limitations.

A prior art reference anticipates a claim "only if each and every element as set forth in the claim is found, either expressly or inherently described," in that reference. *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added); see also M.P.E.P. § 2131 (quoting *Verdegaal Bros.*, 814 F.2d at 631); see also M.P.E.P. § 706.02 ("[F]or anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly."). In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131.

For example, *Moslares* does not disclose, teach, or suggest that a new value for each child is determined by allocating new values of the parents to the children based on the *variations* of the children, much less based on either *the sum of the variations of the children or a matrix of the variations of the children*, as recited in Claim 1, and similarly in Claims 10, 19, 28, 29, 31 and 33.

Nowhere does *Moslares* disclose an allocation of a value from a parent to its children based on the variation of the children. At best, the citations to *Moslares* provided by the Examiner teach that a value (such as a demand value) of a parent may be directly associated with a child. For example, referring to the passages cited by the Examiner from columns 15 and 16 of *Moslares*, even assuming for the sake of argument that item "A" is a parent and items "B" and "C" are children, there is no disclosure that a value for item "A" is allocated to item "B"

and/or item "C" based on the variation of item "B" and/or "C." To contrary, *Moslares* states that each of these items have a *fixed* relationship to each other. For example, there is a one-to-one relationship between items "A" and "B" such that a demand for item "B" is equal to a demand for item "A." (See column 16, lines 5-9). *Moslares* does not disclose that any *variation of the children* is used in the *allocation* of a value from a parent to the children. Furthermore, *Moslares* certainly does not teach that a value for a child is determined by allocating the value for a parent based on *the sum of the variations of the children or a matrix of the variations of the children*.

Therefore, for at least these reasons, *Moslares* fails to anticipate Claims 1, 10, 19, 28, 29, 31 and 33 of the present invention. Therefore, Applicant respectfully requests reconsideration and allowance of Claims 1, 10, 19, 28, 29, 31 and 33, and all claims that depend from these independent claims.

CONCLUSION

Applicant has made an earnest attempt to place this application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicant, at the Examiner's convenience at (214) 953-6986.

Applicant believes no fees are due; however, the Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

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